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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/351,608	07/12/99	GROBBEL	M F-40358

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IM71/0312

EXAMINER

TORRES VELAZQUEZ, N

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

03/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/351,608

Applicant(s)

GROBBEL ET AL

Examiner

Norca L. Torres-Velazquez

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 and 42-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear in the claim if the "elements" are shaped differently or if the originating material have a particular configuration that will provide the particular geometric shapes.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by TESCH (US 4,292,367).

TESCH discloses a textile material that comprises a carrier, an outer layer composed of individual endless threads, mounted on, and covering a portion of the carrier and forming a predetermined design thereon. The reference further discloses that the textile material comprises holding fibers, including fiber pieces emanating and projecting from at least some of the threads and the fiber pieces attaching that layer to the carrier by active needling. (Refer to claim 1).

TESCH further teaches that a floor covering is known, which is composed of a textile layer, in which threads spun from individual fibers to form a pattern; this textile layer is deposited on a carrier made of fibrous material. The textile layer, composed of threads, is then covered with another fibrous layer, which is active with respect to needle-punching, and the

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fibrous layer is thereafter needled onto the carrier. (Column 1, lines 18-25). The reference teaches that the threads may have, for example, a weight of 200 grams per square meter, so as to obtain the desired pattern. (Column 3, lines 61-64).

The reference further teaches that the endless threads are also suitable for being grouped or arranged into desired patterns in the field of needle-felting, according to a desired structure or coloring. (Column 2, lines 55-60).

Regarding claim 33, it is inherent to consolidate by needling.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over TESCH as stated above.

Regarding the size of the yarns and elements; where the general conditions of a claim are met, mere changes in size and shape have been held to be within skill of the art dependent only on the desired end use of the article claimed, *In re Rose* (105 USPQ 237), *In re Dailey* (149 USPQ 47).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Foënard (US 4,338,369)- discloses a mat that comprises at least two felt-like layers of textile material held together by multiple needle perforations.

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Pickens (US 4,342,802)

Katz (US 5,843,554)

Vinod (US 5,965,232)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 7:30-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

nlt *mlt*
March 6, 2001

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER